In the High Court of Judicature at Madras

Dated : 16.7.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

A.S.Nos.435 to 464 of 2013 & all connected pending MPs

1.The Special Tahsildar (LA) Unit-1,
Outer Ring Road Project Phase I,
Chennai Metropolitan Development
Authority, Egmore, Chennai-8. ...Appellant/Referring officer in all the appeals

Vs

1.Tmt.Roop Mathi Mohan ...R1 in A.S.435/13/Claimant
2.N.Rangaswamy ...R1 in A.S.436/13/Claimant
3.A.Shaik Ibrahim ...R1 in A.S.437/13/Claimant
4.Grace ...R1 in A.S.438/13/Claimant
5.R.Sasikala ...R1 in A.S.439/13/Claimant
6.kalaivani ...R1 in A.S.440/13/Claimant
7.D.Vasudevan ...R1 in A.S.441/13/Claimant
8.K.V.SeethaKalyani ...R1 in A.S.442/13/Claimant
9.J.Radhakrishnan ...R1 in A.S.443/13/Claimant
10.Madhumathi Rajagopalan ...R1 in A.S.444/13/Claimant
11.K.G.Mani ...R1 in A.S.445/13/Claimant
12.M.Bathul ...R1 in A.S.446/13/Claimant
13.D.V.Ramamoorthi ...R1 in A.S.447/13/Claimant
14.P.R.Pichamurthy ...R1 in A.S.448/13/Claimant
15.S.Hemalatha ...R1 in A.S.449/13/Claimant
16.A.Baskar ...R1 in A.S.450/13/Claimant
17.N.Jebaraj ...R1 in A.S.451/13/Claimant
18.C.Madhanagopal ...R1 in A.S.452/13/Claimant
19.L.Chandrasekaran ...R1 in A.S.453/13/Claimant
20.A.Nithyanandam ...R1 in A.S.454/13/Claimant
21.J.Narayanan ...R1 in A.S.455/13/Claimant
22.V.Sumathi ...R1 in A.S.456/13/Claimant
23.N.Govindarajan ...R1 in A.S.457/13/Claimant
24.Dhanapal ...R1 in A.S.458/13/Claimant
25.Nagarajan ...R1 in A.S.458/13/Claimant

26.G.Savithri ...R1 in A.S.459/13/Claimant
27.T.R.Sekar ...R1 in A.S.460/13/Claimant
28.M.Sivasankaran ...R1 in A.S.461/13/Claimant
29.K.Lakshmipathy ...R1 in A.S.462/13/Claimant
30.C.Vasantharaj ...R1 in A.S.463/13/Claimant
31.Sellina Vasantharaj ...R1 in A.S.463/13/Claimant
32.J.S.K.Kumar ...R1 in A.S.464/13/Claimant

2.The Member Secretary, Chennai Metropolitan Development Authority, Egmore, Chennai-8. ...2nd Respondent in all the appeal except AS.458/13-R3 and 463/13

Prayer:Appeals filed under section 54 of Land Acquisition Act against the Judgment and decree of the Subordinate Judge, Tambaram dated 31.10.2012 and made in LAOP.Nos.222/09, 224,229,240,241,244,245,247,249,269,271,272,278,283,284,285,289, 295,296,297,298,299,301,302,303,304,305,306,314,and 326/09 respectively.

For Appellant in all the appeals: Mr.P.Gunasekaran, AGP in all the appeals

For 1st Respondents/ Claimants : Mr.J.Ram for Mr.V.Jayaraman in all the appeals and for R1 and R2 in AS.No.458/13 & 4638/13

For the Chennai Metropolitan Development Authority: Mr.C.Johnson in all the appeals.

COMMON JUDGMENT

(Judgment was delivered by V.RAMASUBRAMANIAN,J)

These 30 appeals arise out of the enhancement of compensation granted by the Land Acquisition Tribunal. These appeals are filed by the Special Tahsildar (LA) under Section 54 of the Land Acquisition Act, 1894.

2. Heard Mr.P.Gunasekaran, learned Additional Government Pleader appearing for the appellant, Mr.J.Ram, learned counsel appearing for the claimants and Mr.C.Johnson, learned counsel appearing for the Chennai Metropolitan Development Authority, which is the Requisitioning Body.

3. A land of a total extent of about 17.50.0 hectares equivalent to 43.22 1/2 acres in Mudichur Village, Tambaram Taluk, Kanchipuram District, were sought to be acquired for the

purpose of forming of outer ring road, under the Outer Ring Road Project promoted by the Chennai Metropolitan Development Authority. A Notification under Section 4(1) of the Act was issued under G.O.Ms.No.413 Housing and Urban Development dated 18.10.2001. It was published in the Government Gazette on 14.11.2001 and in the locality on 12.12.2001.

4. After an enquiry was held under Section 5A, an amendment was issued to the Notification under Section 4(1) on 26.6.2012. Thereafter, a draft declaration under Section 6 was published on 3.12.2012.

5. By an award bearing award No.7/2004 passed on 29.10.2004, the Land Acquisition Officer came to the conclusion that the market value of the land could be fixed at Rs.1,000/- per cent. Aggrieved by the said fixation, the land owners sought references under Section 18. In a batch of about 30 petitions referred under Section 18 of the Act, the Subordinate Court, Tambaram, passed an award on 31.10.2012 enhancing the compensation to Rs.67,580/- per cent. Aggrieved by the said fixation, the Special Tahsildar (LA) has come up with the above appeals under Section 54.

6. It is seen from the award passed by the Land Acquisition Officer that he took into account about 597 sale transactions that took place during the period from 2.12.1998 to 31.12.2001. These 597 transactions were classified by the Land Acquisition Officer into different categories as follows :

"1.	Sale of house sites	: 488
2.	Sale in dry land	: 17
3.	Sale in wet land	: 35
4.	Sale in poramboke land	: 14
5.	Sale in village site land	: 33
6.	Sale in adi dravida village site land	: 10
	Total	597"

7. After categorizing the 597 sale transactions into the above types, the Land Acquisition Officer took the sale at S.No.158 as the basis. Under the said sale, the land of an extent of 0.28 acres of wet land had been sold for Rs.28,000/- under document No.1796 dated 16.9.1999. This is how the Land Acquisition Officer arrived at the market value and passed an award bearing award No.7/2004 dated 29.10.2004.

8. Before the Land Acquisition Tribunal, one land owner was examined as C.W.1 and the Special Tahsildar was examined as R.W.1. The certified copies of about 4 sale deeds were filed as Ex.C.1 to Ex.C.4. The village map of Mudichur Village was marked as Ex.C.5. On the side of the appellant, no document was marked.

9. The Land Acquisition Tribunal found that under Ex.C.1 sale deed dated 7.4.2000, a land of an extent of 3,200 sq.ft., in the same village in S.F.No.6/5 had been sold for a sale consideration of Rs.4,90,000/-. As per this document, the rate per cent worked out to Rs.66,762/-.

10. Under Ex.C.2 sale deed dated 27.7.2001, the land of an extent of 2,325 sq.ft. had been sold for Rs.3,58,050/-. On this basis, the rate per cent worked out to 67,214/-. Under Ex.C.3 sale deed dated 13.9.2001, which was the closest to the date of the Notification under Section 4(1), the land of an extent of 1,650 sq.ft had been sold for a total sale consideration of Rs.2,55,750/- and the land value worked out to Rs.67,580/- per cent. Under Ex.C.4 dated 8.11.2000, the land of an extent of 2,400 sq.ft was sold for a consideration of Rs.3,69,600/- and the land value worked out to Rs.67,144/-. Therefore, on the basis of the principles laid down by this Court and the Apex Court, the Tribunal took the market value indicated by Ex.C.3, to be the guiding factor for finding the market value of the land acquired.

11. It is contended by Mr.P.Gunasekaran, learned Additional Government Pleader that when the lands acquired were either wet lands or dry lands, it was not correct on the part of the Land Acquisition Tribunal to take into account the market value as reflected in sale transactions relating to house sites. Hence, he contended that the Tribunal was completely in error in taking as the guiding factor the rate reflected in sale deeds relating to house sites.

12. We have carefully considered the above submissions.

13. It is true that when vast extents of land, both dry and wet, are acquired, the Tribunal or the Land Acquisition Officer cannot go by the market value of a very small extent of house site sold under a very stray document. But, the application of the above principle to cases of this nature, is in great doubt. We have already extracted the fact that the Land Acquisition Officer took note of 597 sale transactions that had taken place during the period from December 1998 to December 2001. Out of these 597 sale deeds, a total of 488 sales related to house sites. This showed that the area had already developed into a town area where the buildings have started coming up. Even the documents filed under Ex.C.1 to Ex.C.4 very clearly showed that in many of the lands, buildings had already come up.

14. Even the Land Acquisition Officer accepted during his evidence that there are several residential colonies such as Srinivasan Nagar, Venkatesa Avenue, Bhimeshwaran Nagar, A.N.Colony, Sakthi Nagar, Navodhaya Estate, Anna Nagar, Varadharaja Perumal Nagar, Parvathi Nagar, Pallavan Nagar, Kannan Avenue and Amudham Nagar in the nearby area. There was a

big lake situate opposite to the acquired land. A church and two temples were also located. There was a matriculation school, yet another school and two colleges located from near the acquired land. Perungalathur Railway Station, Tambaram Railway Station, Tambaram Bus Stand, banks and court complexes were situate near the land. There were at least four hospitals namely Hindu Mission Hospital, Deepam and Kasturi Hospitals, etc. There were also three engineering colleges and a theme park located 1 Km away. Therefore, the Land Acquisition Tribunal took all the locational advantage of the land. The area nearby had already developed into a residential area. Hence, the Tribunal went by the principles laid down in various decisions of this Court to come to a conclusion that the value reflected in the nearest document namely Ex.C.3 should form the basis.

15. It must be pointed out that Mudichur is actually a village next to Tambaram. Tambaram is located at a distance of 25 Km from 0 point in the city of Chennai. The area had already developed even 30 years ago, after the second master plan issued by the Chennai Metropolitan Development Authority. The project, for which the land was acquired, was a Outer Ring Road Project. Therefore, we are of the considered view that the Tribunal was right in going by Ex.C.3 and in fixing the rate at Rs.67,580/- per cent.

16. As rightly pointed out by the learned counsel appearing for the claimants, the document that reflects the highest value can be taken note of, provided the sale transaction relating to the document preceded the date of Notification under Section 4 (1) and the document was not borne out of either aberration or an abnormal fixation. This is the dictum laid down by this Court in State of Madras rep.by the Collector of Madras Vs. Seetharamammal [1972 (1) MLJ 58]. The Tribunal rightly took into account the decision of the Supreme Court in Nelson Fernandes & Others Vs. Special Land Acquisition Officer, South Goa & Others [2007 (9) SCC 447] to hold that wherever the lands are acquired for laying of roads, there is no necessity for deducting the development charges.

17. As a matter of fact, the very fact that 488 data sales out of 597 related to house sites, on which, several buildings have come up, showed that the area was already developed. In such circumstances, we are of the considered view that the Tribunal was right in coming to the conclusion that it did. Hence, the award of the Tribunal does not call for any interference.

18. Accordingly, the above appeals are dismissed. The appellant is granted a time of eight weeks to deposit the balance amount. Upon such deposit, the claimants or their legal heirs are entitled to withdraw the amounts. The Additional

Government Pleader is entitled to separate fees. No costs. Consequently, all connected pending MPs are also dismissed.

-s/d-
Assistant Registrar(CSIII)
dt:17/03/2016

True Copy

Sub-Assistant Registrar

To
1.The Subordinate Judge,
Tambaram

copy to:

The Section Officer, VR Section
High Court, Madras

+ cc to Additional Government (AS) sr.36267
+2 ccs to Mr.C.Johnson Advocate sr.36369
+30ccs to Mr.V.Jayaraman, Advocate sr.36147 to 36176

A.S.Nos.435 to 464 of 2013
& all connected pending MPs

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